

WALPOLE ZONING BOARD OF APPEALS MINUTES OF NOVEMBER 18, 2015

A regular meeting of the Walpole Zoning Board of Appeals was held on Wednesday, November 18, 2015 at 7:00 p.m. in the main meeting room at town hall. The following members were present: Matthew Zuker, Chairman; James DeCelle, Vice Chairman; Craig Hiltz, Clerk; Mary Jane Coffey, Susanne Murphy, and Timothy Foley, Associate Member.

Mr. Zuker opened the meeting at 7:00 p.m.

7:01 p.m. Stephen Townsend Continued Hearing, 321 East Street, Case No. 12-15: Ms. Murphy recused herself. Mr. Zuker read a letter from Mr. Townsend dated November 12, 2015 requesting to continue tonight's public hearing to December 9, 2015 as he is not ready to go forward tonight. Motion seconded by Mr. DeCelle and voted 5-0-0. (Zuker, DeCelle, Hiltz, Coffey, Foley).

Ms. Murphy returned at 7:03 p.m.

7:04 p.m. William Cuqua Continued Hearing, 150 Common Street, Case No. 15-15: The applicant was represented by Atty. James Brady, Main Street, Walpole and Dan Merrikin, Merrikin Engineering, Millis, MA. Mr. Merrikin stated the board can authorize the conversion. This is a large structure, which doesn't meet the definition of today's bylaw; however, it is pre-existing nonconforming by today's standards. This doesn't increase the nonconformity. Town Counsel has not weighed in as to whether or not she agrees.

Mr. Zuker asked if there has been any conversation with the abutters since our last meeting and Atty. Brady stated there is no desire on the part of the abutters to get together. Mr. Zuker stated this is a zone that allows for a multi-family. This garage is a beautiful structure, as it exists today. He had hoped there would be some dialogue between the parties, but it doesn't look like that will happen. We have to decide if it is a special permit or a variance. The barn is beautiful and it would be a shame to tear it down only to rebuild. Atty. Brady stated the visibility for the neighbors even with the leaves gone will be very minimal. His clients are very willing to enter into a discussion to discuss what is offensive to the abutters. The only thing he can think of is there is a deck coming off the back. Ms. Murphy stated it is a huge deck. Atty. Brady stated his clients had offered to remove it. The reason for the deck is that the applicant's father-in-law has a problem walking. Mr. Zuker would like to hear the issues from the abutters.

Atty. Edward Cannon, Doherty, Ciechanowski, Dugan & Cannon, 124 Grove Street, Franklin, MA represents Glenda and Edward Watson and Nicholas and Vera DeRosa, abutters to this project. He stated this project is in their backyards. He met with the Watson's after the last meeting and the Watson's decided they just don't like this particular project and they are not agreeable to what is before the board. Mr. Hiltz questioned whether or not this project requires a variance or a special permit. The character of the neighborhood has been discussed and that a multi-family is allowed. Atty. Cannon stated what is proposed is a two-family with two structures and his clients feel this will increase the density in this area. Mr. Hiltz asked if there are any other aspects of this application that are inconsistent with the neighborhood and Atty. Cannon stated the idea of turning the carriage house into

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a home and it is right on the lot line. Mr. Zuker asked what is on the other side of the property. Atty. Brady stated there is a two family next door and also the next house down is a two family. The neighbor to the left where there is an encroachment signed off on this. It would be a travesty to tear down the barn and rebuild. The Cuqua's don't want to do this, but they will. It is a beautiful barn and they will keep the character of the carriage house which fits into the character of the neighborhood. Just because there are two separate structures, it doesn't mean it will make the area more dense. He doesn't see the logic. It is zoned GR which is why we have this zone. He respectfully disagrees with the opponent. All the houses in the area are two families and he had submitted a petition in support of this at the last hearing.

Atty. Cannon stated the applicant has options and choices. They can leave the barn and add onto the house. Ms. Murphy asked how many other two family houses in the area are detached. Atty. Brady stated he doesn't know. Mr. Merrikin stated that those on Ellis Street are detached. Atty. Brady stated he is not sure how detached versus attached affects anything, like traffic or noise. Mr. Merrikin stated they could be here for a proposal of a big addition off the back of the house, but to do it this way would be preserving the property the way it has been for 150 years. What is proposed would preserve the neighborhood and the area more than a big addition would. Mr. Zuker stated the proposal if this was a vacant lot would be more detrimental to the neighborhood and the abutters. Every situation is unique. Whatever that barn was used for it would be valuable for the history of the town and especially Common Street. He understands that the abutters have a right to come in and oppose this, but he is trying to understand what the opposition is. He feels this project has a lot of good. He still urges the neighbors to talk. The alternative might be more detrimental. The applicant is amendable to planting some trees if the board feels that is important. The proposed dormer in the back can be re-designed and the proposed dormer in the front doesn't impose on anything. Mr. Zuker stated that clearly the abutters have some issues and Mr. Merrikin stated this can be scaled back. Mr. DeCelle asked if the existing house and the garage are the same color. Further, if this is approved, a condition of approval could be this would need to stay within the character of the neighborhood.

Gina Zaccaro, 150 Common Street stated she is very old school. She loves the character of the garage and they have every intention to keep it the way it is. She doesn't want to change the structure on the property. The reason for the dormer is to make the wall space useable. They are changing nothing as far as the character. They can downsize the deck, but the reason they wanted to make it larger is so it would be handicap accessible. In renovating, she wants to re-use the wood that is in the carriage house now. They will bring it up to code and replace the windows. Mr. Merrikin stated that concern can be a condition of approval. Ms. Zaccaro stated they will be there to take care of the kids and help out on a daily basis. Mr. Merrikin stated to build this structure today they would be looking for two principal structures on one lot and they would be looking for a 10' side yard. If they weren't increasing the nonconformity, they wouldn't need a variance. Atty. Brady stated it would also make sense if you are changing the use as this board has the authority to do that. Mr. Merrikin stated that nonconforming structures change uses all the time. Atty. Brady stated that Section 9-1-C-3 lets the board do that.

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Mr. Hiltz stated if we continue this do you think the parties could come to an agreement? Atty. Cannon stated he would take something to his clients, but he has not seen anything. He won't say no to any dialogue. Atty. Brady stated if what they are asking for is not allowed, their intent is to tear the building down. The message that was sent to him was that the abutters were not interested in a meeting. Atty. Brady gave Atty. Cannon a copy of town counsel's response. Atty. Cannon asked when this was submitted to the board and Mr. Zuker stated just now.

Mr. Zuker asked the board what their concerns are. Ms. Murphy responded dimensional setbacks and use. She would like to have town counsel at our next meeting. Ms. Coffey agrees with Ms. Murphy and feels we should wait for town counsel also. She doesn't feel this board should be held by the threat that if this doesn't go forward, they will tear it down. Atty. Brady stated this is not a threat. Mr. Zuker feels it would be beneficial to have Atty. Quirk here. Atty. Brady stated he would hate to see this barn go. He lives four doors down and it should be preserved if possible. Mr. Zuker stated it would be a shame to take it down. Ms. Coffey feels strongly about the character of the neighborhood, but it would be in our best interest to have Atty. Quirk here. Ms. Murphy agreed.

Mr. Zuker stated he would like to continue this until Atty. Quirk can be here. Mr. Hiltz stated he would also like a chance to read Atty. Brady's email. Mr. Zuker stated that town counsel would be here for the board's benefit. It was not our intent to get into a legal back and forth. Ms. Murphy asked if the abutters' counsel has everything and Atty. Cannon stated Atty. Brady gave him everything tonight. Mr. Hiltz stated we can seek counsel outside the public hearing. Atty. Brady stated he would like town counsel's opinion a week in advance if possible. He doesn't want to get it the day before the meeting. Mr. Zuker stated town counsel will be at the next meeting and we already have her opinion. She will not be telling us how to vote, but will just guide us in what we should consider.

Mr. Hiltz moved to continue this to December 9, 2015 at 7:00 p.m. Motion seconded by Ms. Murphy and voted 6-0-0.

Barberry: Mr. Zuker stated they gave us an extension through December 17, 2015. Mr. Hiltz moved to accept an extension of time up to and including December 17, 2015. Motion seconded by Mr. DeCelle and voted 5-0-1 (Ms. Murphy abstained). Mr. Hiltz stated we have a request for consideration of insubstantial changes as it relates to some wetland concerns raised by the NepRWA. They would like the conservation agent to attend the December 9th meeting at 7:00 p.m. if possible.

Minutes: Mr. Hiltz moved to accept the minutes of October 28, 2015. Motion seconded by Mr. DeCelle and voted 5-0-1 (Ms. Murphy abstained).

Mr. Zuker moved to adjourn. Motion seconded by Mr. DeCelle and voted 6-0-0. The meeting adjourned at 8:15 p.m.

Respectfully submitted,

Craig W. Hiltz, Clerk

Accepted: 1/13/16